



Security Council

Distr.: General
10 August 2006

Original: English

**Letter dated 10 August 2006 from the Acting Chairman of
the Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism addressed
to the President of the Security Council**

The Counter-Terrorism Committee has received the attached fourth report from the Cook Islands submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(Signed) Adamantios Th. Vassilakis
Acting Chairman

Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism



Annex

**Letter dated 7 August 2006 from the Secretary of the
Ministry of Foreign Affairs and Immigration of the Government
of the Cook Islands addressed to the Chairman of the
Counter-Terrorism Committee**

Further to your request that the Cook Islands provide further clarification on its previous report, submitted in April 2004, I am pleased to attach herewith for the consideration of the Committee the response of the Cook Islands to the concerns raised by the Committee (see enclosure).

Given our limited resources and other pressing Government priorities, it was difficult to reply any earlier. Therefore, please accept our apologies for the undue delay in compiling this report. I would like to emphasize that this should not be taken as a reflection on the Government's commitment to preventing and suppressing terrorist acts, rather, I would like to stress that our Government is endeavouring to promote the aims and objectives of resolution 1373 (2001) both domestically and regionally.

(Signed) Edwin **Pittman**
Secretary

Enclosure*

**Fourth report to the United Nations Security Council
Committee established pursuant to resolution
1373 (2001) concerning Counter-Terrorism Activities in
the Cook Islands**

Implementation Measures

Effectiveness in the protection of the financial system

1.1 Terrorism Suppression Act 2004

Section 12 of the above Act provides that "a person must not directly or indirectly, knowingly make available property or other financial or other related services to, or for the benefit of, a terrorist group, *other than for the purposes of humanitarian aid or legal services*".

A copy of the Terrorism Suppression Act 2004 is enclosed herewith.

1.2 Alternative money remittance services

The Financial Transactions Reporting Act 2004 regulates alternative money remittance services and informal banking networks by requiring reporting institutions to undertake various reporting obligations. A reporting institution means any person or entity who conducts as a business one or more of the activities (listed under s. 2 "Definitions" of the Act) for or on behalf of a customer, including money and currency changing; acting as a friendly society; otherwise investing; administering or managing funds or money on behalf of another person.

A copy of the Financial Transactions Reporting Act 2004 is enclosed herewith to assist with the identification of the activities referred to above.

1.3 Financial Intelligence Unit

The Financial Intelligence Unit (FIU) has three staff, all former police officers with over 14 years service, each well versed in this area. The Unit is currently the model being aspired to by other FIUs in the Pacific region. The Office provides training and information on trends and is established and operates to cover the requirements in the Financial Transactions Reporting Act 2004. As money laundering experts, the Unit was sponsored by the New Zealand Ministry of Foreign Affairs and Trade to facilitate a recent desktop terrorism exercise in Fiji.

* Annexes are on file with the Secretariat and are available for consultation

1.3.1 Budget

The Budgetary allocation for the Unit is contained in Table 1 below.

<i>Table 1: Financial Intelligence Unit Budget</i>	
Financial Year	Budget (NZ\$)
2002-2003	\$100,000
2003-2004	\$250,000
2004-2005	\$335,600
2005-2006	\$437,600

1.3.2 Staffing

1. Head of the Unit is the Chief Executive Officer.

2. Intelligence Officer

- Analyses reports received from reporting entities and others
- Where appropriate disseminates intelligence to appropriate domestic and/or foreign agencies and where deemed appropriate, to the Police for investigation

3. Compliance Officers (2 positions with one vacancy)

- Conducts on-site visits to ensure compliance with the obligations pursuant to the Financial Transactions Reporting Act 2003 and 2004

1.3.3 Membership

As acknowledgement and recognition of the Unit's expertise, it holds various positions in the following international organizations: –

- Chair – Asia Pacific Group on Money Laundering (APG) Implementation Issues Working Group (IIWG)
- Member of Egmont Group of FIUs
 - Oceania representative to the Egmont Group of FIUs
 - Member of the Executive Committee
 - Member – Egmont Group training working group
- Member – APG typologies working group
 - Cook Islands delegate to APG annual meeting
- Member – Financial Action Task Force (FATF) working group on money laundering and terrorist financing
 - Member – FATF working group on evaluation and implementation
 - Member – FATF working group on corporate vehicles
- Chair – Cook Islands Coordinating Committee of Agencies and Ministries (CCAM) on anti-money laundering and combating the financing of terrorism
- Member – Cook Islands Combined Law Agency Group (CLAG)
- Central agency responsible for Cook Islands in respect of anti-money laundering and combating the financing of terrorism

1.4 Suspicious Transaction Reports

There is a two-step process in determining suspicious transaction reports.

1.4.1 Financial Intelligence Unit

The Financial Intelligence Unit receives reports from the various entities in the financial sector. The FIU undertakes the necessary intelligence work on the reports and when they are deemed ready or if the FIU believes money laundering or proceeds of a serious crime are apparent, the report is passed onto the Police for investigation. To date the FIU has not referred any such reports to the Police for investigation.

1.4.2 Police

The Police have the ability to investigate and prosecute for money laundering on their own accord without having to receive any information or reports from the FIU. Where the Police are dealing with someone for a serious crime (where the penalty is more than 12 months imprisonment or a \$500 fine) they can lay a money laundering charge. During or following an investigation, the Police can then prosecute. There have been no such prosecutions to date.

Effectiveness of Counter-Terrorism machinery

1.5 International instruments

Due to capacity constraints (to prepare implementing legislation), the Cook Islands has yet to accede to the five international instruments referred to in its first report.

1.6 Charity organisations

The Income Tax Act 1997 provides that a 'charitable purpose' includes every charitable purpose, whether it relates to the relief of poverty, the advancement of education or religion, or any other matter beneficial to the community.

The Act further provides that income (not being income of the kind referred to in the paragraph following) derived by trustees in trust for charitable purposes or derived by any society or institution established exclusively for such purposes and not carried on for the private pecuniary profit of any individual shall be exempt from taxation. Income derived directly or indirectly from any business carried on by or on behalf of or for the benefit of trustees in trust for charitable purposes within the Cook Islands, or derived directly or indirectly from any business carried on by or on behalf of or for the benefit of any society or institution established exclusively for such purposes and not carried on for the private pecuniary profit of any individual shall also be exempt from taxation.

The Incorporated Societies Act 1994 provides that any society consisting of not less than fifteen persons associated for any lawful purpose but not for pecuniary gain may apply to become incorporated as a society under the Act. Every society registered under the Act is required to present an annual financial statement to the Registrar of Incorporated Societies. The statement will contain some of the following particulars: income and expenditure, assets and liabilities, mortgages, charges and securities and

the like. The statement has to be approved at an annual general meeting. In most cases, the statement is audited. Not all charitable organisations (i.e., not for profit) are incorporated under the Act, for example, housie or bingo organisations.

Effectiveness of Customs, Immigration and Border Controls

1.7 Immigration controls

A copy of the amended Entry, Residence and Departure Act, 1971-72 will be submitted for the information of the Committee when it is enacted.

The Crimes Amendment Act 2004 (attached herewith) has been amended to address people smuggling and trafficking. The Amendment provides for fines up to \$500, 000 or 20 years imprisonment for trafficking in persons and the smuggling of persons. It also provides for a fine not exceeding \$300, 000 or an imprisonment term not exceeding 14 years for facilitating the stay of an unauthorised person in order to obtain a material benefit. Finally, the Amendment makes it an offence for a person to produce fraudulent travel or identity documents, a person caught doing so may be liable to imprisonment for a term not exceeding 5 years or to a fine not exceeding \$5,000.

1.8 Controls on preventing access to weapons by terrorists

(a) Legislation, regulations, administrative procedures

Any person or entities wanting to import firearms, ammunition or explosives into the Cook Islands requires a permit from the Minister of Police. When the goods arrive at the border, the Cook Islands Customs will intercept and verify the consignment with the permit before the goods are released. In the case of discrepancies from the inspection of the contents, the consignment will not be released and Customs will refer the matter to the Police for further investigation. A clean consignment will be released immediately.

The screening of shipping cargo manifests, air cargo manifests and parcel post declarations assist Customs in detecting or obtaining first hand information on any consignments of restricted articles such as firearms, ammunition and explosives.

There is no local manufacture of firearms, explosives and ammunitions in the Cook Islands. These goods are classified as prohibited imports under the Cook Islands Arms Ordinance Act 1954 and under the authority of s. 46 of the Customs Tariff Act 1980. The sale of arms, ammunition and explosives is prohibited in the Cook Islands, although the Minister of Police may appoint a person to sell such items. To date, no such person or entity in the Cook Islands sells arms, ammunition or explosives. Explosives may be imported into the Cook Islands; however, it is normally for the sole use of the Ministry of Works, Energy and Physical Planning and other approved contractors for the purpose of infrastructure projects.

(b) Export Control

Any export of firearms, ammunition and explosives requires the exporter to produce appropriate documentation such as a Customs export entry permit, shipping documents, Police permits or registration forms of such firearms. Such exports are noted for make, model and serial numbers, etc.

Almost all exports are for repairs or the return of such firearms. Most firearms are exported to New Zealand given that they were originally imported from that country. The screening process would indicate the dealer or the firearm supplier overseas. If however, a person other than known exporters of firearms exports the firearm, then this would alert the Customs to fully inspect the consignment.

The Cook Islands Customs has not implemented any intelligence based risk management of borders to identify high-risk goods. Cook Islands Customs rely heavily on information exchange amongst law enforcement agencies in the region and internationally. They also receive assistance for any related information from INTERPOL through the New Zealand Police and New Zealand Customs Services and the Pacific Transnational Crime Coordination Centre (PTCCC). The latter agency was established in June 2004 and provides the Pacific Islands States with their own mechanism to facilitate and enhance the exchange of law enforcement intelligence throughout the Pacific as it functions as the regional trans-national criminal intelligence unit.

(c) Brokering

Given that arms, ammunition or explosives are not manufactured in the Cook Islands but imported from overseas usually New Zealand, there is no requirement to disclose the names and locations of brokers involved in transactions concerning firearms or explosives on the import and export licences, or on any of the accompanying documents. Nevertheless, most importers retain their copies of any receipts or invoices for the purposes of Customs duties and related taxes.

There are no legal provisions allowing for the sharing of relevant information with foreign counterparts in order to enable cross-border cooperation, even so, the law enforcement agencies do share and receive intelligence from their counterparts throughout the region.

(d) Stockpile management and security

There are no legal and administrative procedures in the Cook Islands to provide for the security of firearms, ammunition and explosives at the time of import, export and transit through the Cook Islands.

The Cook Islands has not implemented using risk assessment principles, any special security measures on the import, export and transit of firearms, such as conducting security checks on the temporary storage and transport of firearms because most requests for the importation of firearms is for a single firearm. Registered law enforcement officials who would have undergone security vetting to enable to join the law enforcement agencies would carry out any such security check.

(e) Law enforcement/illegal trafficking

Cook Islands law enforcement agencies cooperate with various regional agencies such as the Oceania Customs Organisation, Pacific Islands Chiefs of Police Conference, Pacific Islands Immigration Directors Conference in sharing information and tracking illegal trafficking.

(f) National point of contact

The national point of contact to act as liaison with other States on matters relating to the prevention of access to weapons by terrorists would be the **Commissioner of Police, Ministry of Police, PO Box 101, Avarua, Rarotonga, Cook Islands, Tel: (682) 22 499, Fax: (682) 29 331.**